

UNITED STATES DISTRICT COURT

for the

District of Nebraska

United States of America

v.

BRANDON TERRELL DAVIS

*Defendant(s)***SEALED**

Case No. 4:21MJ3103

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of AUGUST 13, 2021 in the county of LANCASTER in the
 District of NEBRASKA, the defendant(s) violated:

| <i>Code Section</i> | <i>Offense Description</i> |
|---------------------------------|--------------------------------------------------------------------------------------------|
| 21 U.S.C. § 841(a)(1),(b)(1) | POSSESSION WITH INTENT TO DELIVER - COCAINE |
| 21 U.S.C. § 841(a)(1)(c),(b)(1) | DISTRIBUTION OF CONTROLLED SUBSTANCE CAUSING SERIOUS BODILY HARM - COCAINE AND FENTANYL |
| 21 U.S.C. § 846 | CONSPIRACY TO DELIVER A CONTROLLED SUBSTANCE - COCAINE AND FENTANYL |

This criminal complaint is based on these facts:

PLEASE SEE THE ATTACHED AFFIDAVIT OF INVESTIGATOR BRIANA SEARS, LINCOLN POLICE DEPT.

☒ Continued on the attached sheet.
 #1744
Complainant's signature

BRIANA SEARS, INVESTIGATOR

Printed name and title☐ Sworn to before me and signed in my presence.

Sworn to before me by reliable electronic means:

Date: September 8, 2021.

District of Nebraska


 Cheryl R. Zwart, U.S. Magistrate Judge
Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Briana Sears, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. AFFIANT states that she is currently involved in an investigation of a case involving the distribution of controlled substances including cocaine and marijuana in the Lincoln, Nebraska area, involving BRANDON T. DAVIS and other persons. I am an Investigator with the Lincoln/Lancaster County Narcotics Task Force, (LLCNTF), and state that I have been a Lincoln Nebraska Police Department Officer for approximately five years. I have received training from the LLCNTF and The Lincoln Police Department, (LPD), related to narcotics investigations.

2. This affidavit is submitted in support of a criminal complaint and arrest warrant for BRANDON T. DAVIS. Since this affidavit is being submitted for the limited purpose of securing an arrest warrant for DAVIS, I have not set forth each and every fact known to me regarding this investigation. The statements contained in this affidavit are based in part on the investigation that I have conducted and information provided to me by other law enforcement officers verbally, and through written reports.

PROBABLE CAUSE

3. On August 13, 2021, at approximately 1910 hours, officers of the Lincoln Police Department were dispatched to the Tackroom Bar and Grill, at 1445 Cornhusker Highway, Lincoln, Nebraska, in response to two overdoses. The victims are herein referred to as Victim 1 and Victim 2. Upon arrival, officers observed two males lying on the ground, near the south side of the parking lot. Victim 1 was observed to have a blue facial complexion. Officers performed Cardiopulmonary Resuscitation on both victims until Lincoln Fire and Rescue arrived and transported both victims to Bryan West Hospital. Family members reported that Victim 1 and Victim 2 had walked out of the Tackroom Bar and Grill approximately five minutes prior to them being located on the ground in the parking lot.

4. Sgt. Reynolds reviewed medical records, which show that Narcan was administered to Victim 2, which produced a positive response. Victim 2 was interviewed at the hospital by Investigator Barksdale and reported they had snorted cocaine inside of Victim 1's truck outside of the Tackroom Bar and Grill. The vehicle was taken into police custody (Blue, 2005 Chevy Avalanche). Victim 1 was reported to be in critical condition at this time.

5. On August 16, 2021, at approximately 1946 hours, officers of the Lincoln Police Department were dispatched to 3260 N 3rd Street, Lincoln, NE on report of multiple overdoses, herein referred to as Victim 3, Victim 4, Victim 5 and Victim 6. Victim 3, who was conscious at the time, reported Victim 4 and Victim 5 had overdosed and were not breathing. A fourth party, Victim 6, had been at the residence but fled prior to officer arrival. Officers administered Cardiopulmonary Resuscitation to Victim 4 and Victim 5 prior to Lincoln Fire and Rescue's arrival. While speaking to officers, Victim 3 exhibited signs of an overdose as well. Victim 3 and Victim 4 were transported to Bryan West Hospital and Victim 5 was transported to Bryan East Hospital. Prior to being transported, Victim 3 gave written consent for the residence to be searched by officers.

6. After medical personnel began to leave the scene, a male was reported to be passed out and not breathing on a bench near Roper Park. The aforementioned male was determined to be Victim 6, who admitted to using some 'bad cocaine' that had been provided by the 'girl with the funny hair.'

7. Within the residence, officers located a blue and white plate with possible cocaine/fentanyl residue, a cut straw with residue and a clear plastic baggie with suspected fentanyl residue. The aforementioned items were collected as evidence.

8. At approximately 2025 hours, Officer Hruska was sent to Bryan East Emergency room to check the status of Victim 5. Upon arrival, Victim 5 was awake and coherent, but would not speak to Officer Hruska about what had happened. Lincoln Fire and Rescue told Officer Hruska that they had administered five doses of Narcan to Victim 5.

9. Investigator Eirich interviewed Victim 3 at the hospital, who reported they had arranged to go to Brandon T. Davis's, herein referred to as 'DAVIS', townhouse in the Portia Knox area to purchase cocaine. Victim 3 told Investigator Eirich that they had text message communication with DAVIS to arrange the purchase of cocaine and marijuana. Investigator Eirich and Investigator Dahlke reviewed the message exchange. Victim 3 told DAVIS that they

needed to 'stop by' and DAVIS responded that he would let Victim 3 know when he got home. Victim 3 was presented with a book-in photo of DAVIS and identified DAVIS as the source of the cocaine. Victim 3 told Investigator Eirich that they had purchased cocaine from DAVIS on two other occasions and had never had any negative effects from the drugs.

10. Victim 6 was also interviewed by Investigator Eirich at the hospital. Victim 6 reported snorting one line of cocaine and then 'blacking out.' Victim 6 did not remember anything else until he was revived in a park by Lincoln Fire and Rescue. Victim 6 did not remember fleeing the residence when emergency services were called. Victim 6 said he had heard about cocaine laced with fentanyl 'going around' Lincoln.

11. On August 16, 2021, at approximately 2359 hours, Investigators with the Lincoln Lancaster County Narcotics Task Force served a search warrant at DAVIS's residence, 1706 Knox St, Lincoln, Lancaster County, Nebraska. DAVIS was located in the basement and taken into custody. In the basement, Investigators located: 14.5 grams of suspected cocaine, which did produce a positive pretest, various controlled prescription pills, suspected MDMA, and \$6,372.75 in US currency. The 14.5 grams of suspected cocaine was located in a cabinet/nightstand on the side of the couch. Within the cabinet, Investigator(s) also located a digital scale with residue, two Nebraska ID cards for DAVIS, 28 Lorazepam pills, 3.5 partial Lorazepam pills and \$5424.00.

12. Investigators located a black Cricket Samsung cellphone in a gray/blue case on the basement coffee table. During an interview, DAVIS identified the aforementioned cellular telephone as his and provided his cell phone number as 402-805-1650.

13. DAVIS was transported to Lancaster County Corrections, where he was cited and lodged on state charges.

14. DAVIS waived Miranda and was interviewed by Investigator Barksdale of the Lincoln Lancaster County Narcotics Task Force. DAVIS said he had approximately one ounce of marijuana, 'Percocet' pills, which he claimed were his mothers, and ¼ ounce of cocaine in 'his drawer.'

15. Investigator Barksdale discussed DAVIS's involvement in selling cocaine and recent overdoses. DAVIS stated that he 'sold a little bit this weekend' and that he had sold approximately one gram of cocaine. DAVIS initially said he gave the cocaine away, then later stated that he doesn't sell cocaine, but gives it to people when they need some. DAVIS admitted

to selling marijuana and stated he sells to less than five people. DAVIS claimed that he is only getting cocaine every four to five months. DAVIS stated he obtained a ½ ounce of cocaine four to five months ago and that the cocaine he possessed was from that time.

16. When asked if he had sold any cocaine earlier, DAVIS said he gave some cocaine to 'home girl' earlier and gave her a 'couple points' around '7' that evening. It is believed that DAVIS was referencing Victim 3. Investigator Barksdale explained that he believed several people which had overdosed had obtained their cocaine from him. DAVIS later stated that he, and who is believed to be Victim 3, had used cocaine at his place and that he didn't know if Victim 3 had taken any cocaine with her, but that Victim 3 did take a marijuana blunt.

17. On August 18, 2021, Investigator Sears and Investigator Parsons interviewed both Victim 3 and Victim 4 at Bryan West Hospital. Victim 3 reported going to DAVIS's residence and paying \$86.00 for marijuana and what they believed to be approximately one gram of cocaine. Victim 3 and Victim 4 then returned to their residence and ingested the substance believed to be cocaine with Victim 5 and Victim 6. Shortly thereafter, Victim 3 realized Victim 4 and Victim 5 were unconscious and Victim 4 was making 'weird sounds.' Victim 3 ultimately decided to call 911 and then performed life saving measures on Victim 4 and Victim 5, who she had pulled down to the floor. Victim 6 fled the residence prior to officer's arrival. After ingesting the cocaine purchased from DAVIS, Victim 3 began to feel groggy, faint and hot, which was not a normal reaction for them when using cocaine. Victim 3 believed they had been administered multiple doses of Narcan.

18. Victim 4 told Investigators Victim 3 had obtained what they believed to be cocaine from 'Brandon' and described his residence as being on Knox Street. Shortly thereafter, Victim 3 and Victim 4 returned to their residence. Victim 4 remembered going into the basement and nothing else until someone was yelling their name and 'beating on their chest.' Victim 4 recalled being carried upstairs on a stretcher and placed into an ambulance. Victim 4 told Investigators that cocaine typically 'peps' them up and the effect lasts for a 'few hours,' but this was not the reaction they had on the night of the overdose. Victim 4 believes they ingested cocaine laced with fentanyl. Medical records show Victim 4 was treated with multiple doses of Narcan and also placed on a Narcan drip. Victim 4 was in the hospital for approximately two and a half days.

19. On August 19, 2021, Investigator Sears and Investigator Denzin spoke with Victim 1 about the overdose which had occurred on August 13, 2021. Victim 1 said they had purchased what they believed to be cocaine from DAVIS before going to the Tackroom Bar and Grill. Victim 1 contacted DAVIS via phone asking if he 'had anything good.' Victim 1 then went to DAVIS's residence on Knox Street, which he believed was between 1630 and 1730 hours. DAVIS retrieved cocaine from the drawer of an end table next to the couch in the basement and placed it into a bag, which he gave to Victim 1. Victim 1 reported purchasing approximately 1 gram of what they believed to be cocaine for \$100.00 and described the cocaine as being in rock form and 'very hard.' Victim 1 then left DAVIS's residence and went to the Tackroom Bar and Grill.

20. On August 13, 2021, around 1900 hours, Victim 1 and Victim 2 exited the Tackroom Bar and Grill and went into Victim 1's brother's truck, which was in the parking lot. While inside of the vehicle, Victim 1 and Victim 2 used a straw to snort the cocaine purchased from DAVIS. Victim 1 reported feeling 'oozy' and 'losing his speech' prior to losing consciousness. Victim 1 told Investigators that the cocaine would be located on the center console of the vehicle.

21. After becoming unconscious, Victim 1 had no further recollection until he woke up in the hospital days later. Victim 1 had been intubated and also placed on a heart/lung machine before being discharged on August 17, 2021. Victim 1 has never had an adverse effect, such as the overdose from August 13, 2021, when using cocaine. Victim 1 believed the last time he had purchased cocaine from DAVIS was approximately four months ago. Victim 1 noted cocaine previously purchased from DAVIS had been in powder form.

22. On August 20, 2021, Investigators with the Lincoln Lancaster County Narcotics Task Force conducted a consent search of the truck where Victim 1 and Victim 2 overdosed. Investigators located a white, powdery substance on the center console of the vehicle, a straw and a portion of a plastic bag. All items were collected as evidence.

23. A search warrant was executed on DAVIS'S cellphone on August 25, 2021. Within the contents of DAVIS's cellular telephone, the following conversations of interest were noted:

24. On August 13, 2021, DAVIS, received a message from Victim 1 asking, 'What's good,' at 1622 hours. DAVIS replied, 'I'm at the crib,' at 1710 hours. At 1710 hours, Victim 1 replied, 'Cool I'll be there.'

25. On August 16, 2021, at 1800 hours, Victim 3 messaged DAVIS, 'yooooo.' DAVIS responded at 1800 hours, 'What up bout to get off work.' Victim 3 followed up with a message stating, 'I needa stop by please,' at 1803 hours. Additional messages were exchanged and at 2114 hours, DAVIS sent Victim 3 a message stating, 'Hey keep me posted.'

26. On August 16, 2021, DAVIS had three incoming calls from Victim 3. The first call was at 1855 hours and lasted 6 seconds. The second call was at 1937 hours and lasted 56 seconds. The third call was at 1939 hours and lasted 31 seconds. It should be noted the call to dispatch regarding these overdoses occurred on August 16, 2021 at 1946 hours.

27. On September 2, 2021, Sgt. Koepke, received laboratory reports related to evidence seized in the aforementioned overdoses. The lab report related to the overdose on August 13, 2021, has lab number: L21-3798. This lab report confirmed the presence of cocaine and fentanyl in the white powder collected from the truck. The second lab report, related to the overdoses on August 16, 2021, has lab number L21-3792. A plate, glass ashtray, a plastic bag with white residue and a plastic straw were submitted for testing reference this case. The lab report confirmed the presence of cocaine and fentanyl on the plate and plastic straw, and the presence of cocaine on the plastic bag with white residue.

28. On September 7, 2021, Sgt. Koepke, received an additional laboratory report related to the search warrant of DAVIS's residence on August 16, 2021. This lab report is labeled L21-3710 and three knotted plastic bags containing: white chunks and powder, white powder and white chunks and powder were submitted. The lab report confirmed the presence of cocaine and fentanyl in the first bag, no controlled substance in the second bag and confirmed cocaine in the third bag

CONCLUSION AND REQUEST TO SEAL AFFIDAVIT


29. For the reasons set forth herein, your Affiant believes the crimes of Possession with Intent to Deliver, Distribution of Controlled Substance Causing Serious Bodily Harm and Conspiracy to Deliver Controlled Substance have been committed and that probable cause exists for the arrest of DAVIS. I also respectfully request that the Court seal this affidavit until further order of the Court, due to the ongoing investigation, as well as to protect the cooperating witnesses who have provided information in this case.

 #1744

Briana Sears, Investigator
Lincoln Police Department

Sworn to before me by reliable electronic means:

Dated: September 8, 2021.


United States Magistrate Judge